

JUL 27 2016

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July 22, 2016

Via Certified Mail

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Citizen Suit Coordinator
Environment and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044-7415

Hon. Eric Holder, Attorney General
U.S. Department of Justice
Citizen Suit Coordinator
950 Pennsylvania Avenue, Room 2615, NW
Washington, DC 20530

Re: *Ecological Rights Foundation v City of Lompoc, et al; USDC, CDCA, Case No. 2:15-CV-04448-TJH-SS*

Dear Citizen Suit Coordinators,

On or about July 20, 2016 the parties in the above-captioned case agreed to enter into a First Amendment to Consent Judgment resolving a compliance dispute in this matter.

Pursuant to 40 C.F.R. § 135.5, the enclosed document is being submitted to the United States Environmental Protection Agency and the U.S. Department of Justice for a 45-day review period. If you have any questions regarding the agreement, please feel free to contact me or counsel for Defendant listed below.

Sincerely,



Andrew L. Packard
Attorneys for Plaintiff
Ecological Rights Foundation

cc: via First Class Mail:

Jared Blumenfeld, Regional Administrator, EPA Region 9

cc: via e-mail:

Joseph W. Pannone and Stephen R. Ontot, Counsel for Defendants
Laurie Kermish, EPA Region 9

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10 Attorneys for Plaintiff
11 ECOLOGICAL RIGHTS FOUNDATION

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

14 ECOLOGICAL RIGHTS FOUNDATION,
15 a non-profit corporation,

16 Plaintiff,

17 vs.

18 CITY OF LOMPOC, CLAUDIA STINE,
19 KEITH QUINLAN, and GALE GREER,

20 Defendants.
21

Case No. 2:15-cv-04448-TJH-SS

FIRST AMENDMENT TO CONSENT
AGREEMENT

(Federal Water Pollution Control Act,
33 U.S.C. §§ 1251 to 1387)

22 WHEREAS, Plaintiff ECOLOGICAL RIGHTS FOUNDATION (hereinafter "ERF")
23 and Defendant CITY OF LOMPOC (hereinafter "City") entered into a Consent Agreement
24 resulting in dismissal of the above-captioned action on May 2, 2016; and,

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26 ///

1 WHEREAS, subsequent to said dismissal, it became apparent that certain tasks set
2 forth in the Consent Agreement could not reasonably be completed by the applicable
3 deadlines; and,

4 WHEREAS, Section 29 of the Consent Agreement permits amendment of the Consent
5 Agreement upon written agreement of ERF and the City;

6 **NOW THEREFORE IT IS HEREBY STIPULATED BETWEEN ERF AND THE**
7 **CITY THAT THE CONSENT AGREEMENT BE AMENDED AS FOLLOWS:**

8 1. Section 2(b) of the Consent Agreement is amended to read as follows:

9 (b) Feasibility Study for Re-Engineering Retention Basin [and possibly
10 the entire site]. On or before October 1, 2016, the City shall complete a
11 comprehensive feasibility study ("2016 Feasibility Study") to determine [assuming the
12 study is for the basin only] whether and how the residence time in the retention basin
13 can be increased to maximize the settling out of suspended solids in storm water
14 discharges to the retention basin, consistent with the terms of the General Permit,
15 including but not limited to the enlargement, reconstruction or relocation of the existing
16 retention basin; the replacement and/or raising of the riser pipe to accommodate the
17 longest retention time/lowest discharge frequency; and a management plan for the
18 scheduled removal of solids from the retention basin to maximize the retention basin's
19 efficiency in removing total suspended solids. The 2016 Feasibility Study shall be
20 provided to ERF and its expert, Matt Hagemann, within five (5) business days of its
21 receipt by City pursuant to the Notice provisions herein. ERF and City shall meet and
22 confer in good faith regarding the sufficiency and content of the 2016 Feasibility Study
23 within thirty (30) days of its provisions to ERF. On or before January 1, 2017, City
24 shall implement the recommendations of the 2016 Feasibility Study (or any other such
25 measures as ERF and City shall agree to in the course of their meet and confer efforts).

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1 2. Section 2(c) of the Consent Agreement is amended to read as follows:

2 (c) Erosion Prevention in Western Gully. The 2016 Feasibility Study
3 shall also address the feasibility of additional structural improvements, such as riprap,
4 in the Western Gully to slow the velocity of storm flows that are currently eroding the
5 gully and contributing suspended solids to the Facility's storm water discharges. As
6 with Section I.2(b) above, the parties shall meet and confer in good faith regarding the
7 sufficiency and content of the 2016 Feasibility Study on this erosion prevention issue
8 within thirty (30) days of its provision to ERF. On or before January 1, 2017, City
9 shall implement the recommendations of the 2016 Feasibility Study (or any other such
10 measures as the Parties shall agree to in the course of their meet and confer efforts)
11 concerning erosion in the Western Gully.

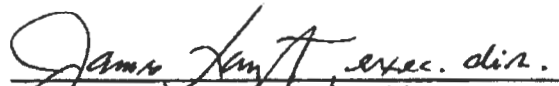
12 3. Section 19 of the Consent Agreement is amended to read as follows:

13 19. This Agreement shall be effective upon mutual execution by the City
14 and ERF. The Agreement shall terminate on the "Termination Date," which shall be
15 June 30, 2019.

16
17 Dated: JULY 20, 2016

ECOLOGICAL RIGHTS FOUNDATION

18
19 By:


James Lamport, Executive Director

20
21
22
23 Dated: July 6, 2016

CITY OF LOMPOC

24
25 By:


Patrick Wiemiller, City Manager